

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

C.A. NO. 04-CV-10521-GAO

BETTY ANNE WATERS, as Administratrix of the
Estate of KENNETH WATERS,

Plaintiff

v.

TOWN OF AYER, NANCY TAYLOR-HARRIS,
in Her Individual Capacity, ARTHUR BOISSEAU,
In His Individual Capacity, BUDDY DECOT, In
His Individual Capacity, WILLIAM ADAMSON,
in His Individual Capacity, PHILIP L. CONNORS,
in His Individual Capacity, and JOHN DOE and
JANE DOES 1-16, in Their Individual Capacities,

Defendants

DEFENDANTS' MOTION TO JOIN
PLAINTIFF'S MOTION TO COMPEL
STATE POLICE TO RESPOND TO
SUBPOENA DUCES TECUM

Now come the defendants in the above captioned matter and hereby join plaintiff Betty Anne Water's Motion to Compel State Police to Respond to Subpoena *Duces Tecum* requesting access to the investigation file ("the file") in Commonwealth v. Kenneth Waters, Nos. Cr. 82-2026 and 82-2027. Said file pertains to the murder prosecution that underlies plaintiff's 42 U.S.C. § 1983 claims against the defendants. The defendants hereby join the plaintiff in her Motion to Compel for the reasons contained in Plaintiff's Motion filed in this matter and request equal access to the file subject to any reasonable protective order that may be fashioned by the parties or the Court.¹

Additionally, the defendants state that the Plaintiff's Motion to Compel should be granted because the information contained in that file is critical to a decision on the

¹ Defendants join the plaintiff and adopt the reasons for access to the files but do not take a position as to the liability of the State Police at this time.

merits of this case. Specifically, the information contained in the State Police's file will allow the defendants to determine what information was disclosed to the prosecution, the State Police, and defense counsel for Kenneth Waters by the defendant police officer, thus providing the defendant police officers with a defense to the plaintiff's Complaint. Such information will also provide an opportunity to assess whether the Commonwealth and/or its agents and officers should be joined as third party defendants. Further, the information requested is not available from any other source and not privileged. Accordingly, the Court should grant the Plaintiff's Motion to Compel and allow access to the file as requested by the parties.

DEFENDANTS

By their attorneys,

/s/ Joseph L. Tehan, Jr.
Joseph L. Tehan, Jr. (BBO # 494020)
Gregg J. Corbo (BBO # 641459)
Kopelman and Paige, P.C.
31 St. James Avenue
Boston, MA 02116
(617) 556-0007

260528/AYER/0053